

ETUC position on the proposal for revision of the Employment Guidelines

Adopted at the Executive Committee Meeting of 9 June 2020

The social impact of the COVID-19 crisis makes it necessary to substantially amend the Commission proposal on revised Employment Guidelines

The COVID-19 outbreak has now become an economic and social crisis, with potentially severe and long-lasting impact on the European labour markets. The European Commission estimates that the EU economy will contract by 7.4% this year due to the pandemic; and EU unemployment rate is expected to increase from 6.7% last year to about 9% this year.¹ According to a Eurofound survey, 28% of Europeans have lost their jobs either temporarily or permanently since the start of the coronavirus crisis.² Other estimates show that almost 60 million jobs are at risk.³ There will also be more underemployment and an increase in the working poor.⁴ This is a much worse scenario than during the 2008–2009 financial crisis.

This new and unprecedented situation will make it necessary for EU Member States to adapt their employment policies, to make them more efficient and targeted. The corona pandemic is a common challenge and therefore there is a need for a more ambitious approach by the European Union in supporting and coordinating national policies aimed at protecting workers and labour markets.

As an integrated part of the European Semester framework, and aligned with the principles of the European Pillar of Social Rights, the Employment Guidelines can be an important tool for Member States in developing and implementing policies and measures to not only temporarily mitigate the economic and social impact of the COVID-19 crisis, but also to emerge from the crisis without undermining labour rights or losing competitiveness. Furthermore, to deal with the crisis and its aftermath in an economically and socially sustainable way, a strong social dialogue should be ensured at all levels. This should be a priority in the Employment Guidelines.

The European Semester will be an important framework to shape the EU action needed to recover from the crisis, and it should continue shifting from its original approach of limiting public deficit at any cost to promoting social justice. The European Semester should monitor national developments including measures to ensure workers' protections and rights. In order to reflect the new reality and dire needs on the European labour markets, as effected by the COVID-19 outbreak, the proposal⁵ from the European Commission on revised Employment Guidelines need to be substantially updated.

The Guidelines should include references to targeted and efficient temporary measures needed to mitigate the impact of the crisis, such as extended short-term work arrangements, income support, extension of sick pay (financed by social security, based on financial contributions from employers, workers and self-employed workers, leading to a general coverage also of self-employed persons and all other non-standard workers, including platform workers), postponement but not waiver of employers' social security contributions, preliminary tax on salaries and value added tax, the promotion of remote

¹ https://ec.europa.eu/info/business-economy-euro/economic-performance-and-forecasts/economic-forecasts/spring-2020-economic-forecast-deep-and-uneven-recession-uncertain-recovery_en

² <https://www.eurofound.europa.eu/data/covid-19>

³ <https://www.mckinsey.com/industries/public-sector/our-insights/safeguarding-europes-livelihoods-mitigating-the-employment-impact-of-covid-19>

⁴ https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/briefingnote/wcms_740877.pdf

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1587710003566&uri=CELEX:52020PC0070>

working, by guidance and means, all the while ensuring the health and safety of all workers.

Member States should ensure that companies receiving public financial crisis support do not distribute dividends and profits or commit fraud. Deferral of social security contributions should be linked to deferral of dividends, wage increases or bonuses of top management, share buybacks and capital reductions. In this manner shareholders and top management will also contribute to guaranteeing cash flow. Income replacement measures, including temporary unemployment or short-time working, should guarantee at least 80 % of lost income. Workers placed in temporary unemployment or short-time working arrangements must be protected against dismissal at all times during this period.

Social partners at all levels should be involved in designing, developing and implementing such measures. This is however far from the case in the EU. According to a recent Eurofound study, social dialogue can be improved in eleven Member States, and the involvement of social partners is ineffective in three countries (Greece, Hungary and Romania).⁶ It will be crucial for Member States to have the fiscal space necessary to boost jobs directly and support broader employment initiatives while increased EU funding should be allocated to help Member States implement the policies and measures needed.

Guideline 5: Boosting the demand for labour

From a long-term perspective, the proposed amended guideline falls short in providing effective measures to boost the demand for labour. All measures proposed refer to entry barriers for businesses and putting forward measures to shift tax away from labour. This proposal does not consider the political implications of reducing the financial capacity of the state. More progressivity on social contributions and taxes should be sought. Furthermore, the only reference to investment needs in order to create jobs is in relation to the prevention of brain drain. Member States can increase labour demand by investments in the social economy and act directly to increase jobs by boosting public spending to ensure safe and effective staffing levels in public health and public social care. Action across Europe to support upward convergence of wages is a key element in tackling the brain drain which has had a particularly negative impact on health and social services in Central and Eastern Europe.

Whereas fostering of innovative forms of work, as suggested by the guideline, is to be welcomed whenever this comes together with the creation of quality jobs, the guideline should prevent the extension of precarious forms of employment.

The involvement of social partners is crucial, and it is very positive that the guideline is calling for Member States to “promote social dialogue and collective bargaining with a view to wage setting”, noting that the governments of Member States themselves should set a positive example as employers in their own social dialogue and collective bargaining practices. The call for establishing fair wages, through strengthening collective bargaining, in particular sectoral collective bargaining, and through improving statutory minimum wages, where they exist, should be welcomed, while respecting national practices, industrial relations systems and the autonomy of social partners. Statutory minimum wages, where they exist, should be set in consultation with and with the full involvement of the social partners.

Another way for Member States to boost the demand for labour, and reduce unemployment, is to invest in large-scale infrastructure projects, for example rail traffic, road electrification and housing. The investments must take a climate change adaptation approach. The ongoing structural transformation on the labour market, with rapid digital

⁶ https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef19017en.pdf

and technological shifts, will set new requirements on digital infrastructure and data capacity. Member States should therefore enhance their work on digital transformation.

Guideline 6: Enhancing labour supply and improving access to employment, skills and competences

It is good that the guideline on enhancing the "labour supply" not only refers to the skills requested by employers but to a more overarching vision of competences aligned with a sustainable productive system and public services. The guideline is calling on Member States to adapt and invest in their education and training systems to provide high quality and inclusive education, including vocational education and training; this is welcomed. Indeed, Europe needs more investment in digitalisation for education and training. Promoting the use of digital tools in education and training, must not exclude vulnerable groups. Given the impact of the pandemic, and the risk of a second wave of infection, it is all the more important that immediate steps are taken to increase the recruitment and training of health and social care staff.

Reskilling and upskilling will be a key component in order to adapt the labour market during the COVID-19 crisis but also to make sure that Europe emerges from this crisis stronger and more competitive. Member States should build up or strengthen job transition support mechanisms and systems, with support from the European Social Fund. One example of such a system is the Swedish Job Transition Funds, based on collective agreements between national social partners. The purpose of such mechanisms is to create ways to get back to employment, preventing redundancies leading to prolonged unemployment, but also opening pathways to new jobs and various processes of job-creation. Member States should take a more active part in guiding unemployed persons, through generous economic incentives, to sectors and occupations where the demand for labour is strong.

With regards to enhancing the market relevance for tertiary education, the guideline should promote an increase in public tertiary education and research to ensure academic freedom for an independent and quality tertiary education and training, allowing for an education independent of market-related pressures and funding in view of the humanistic nature of education as well as the aspirations of individuals.

In matters of support for the unemployed and given the increased number of workers who are long-term unemployed, the guideline should address the need for undertaking early action to avoid the scarring effect on individuals (and societies) of being outside the labour market. This aspect is of utmost importance given the impact on workers due to the COVID-19 pandemic. The coverage and level of unemployment benefits need to be sufficient. Some national systems are too rigid when it comes to eligibility and the reimbursement is too low. At the same time, unemployment benefits should be linked in an effective way to active labour market policies. In addition, solutions must also be sought for the many situations of informal employment which do not provide protection. In order to provide the best service, Member States must guarantee that public employment services have sufficient means and staff with the right qualifications.

The Commission's proposal sends a worrying message concerning the removal of barriers and disincentives to "low income and second earners". Rather than facilitating precarious workers to get an extra job, putting quality jobs on the agenda should be at the core of the employment vision of the EU. The current pandemic has exposed the detrimental effects caused by a labour market containing non-standard and precarious employment. Precarious workers are often the ones most swiftly effected by a crisis. This also includes self-employed, let alone those in a situation of bogus self-employment. The rights of all workers, including self-employed and persons in non-standard forms of employment, must therefore be strengthened and guaranteed, according to national systems and practices.

Member States must prevent new structural negative trends resulting from the coronavirus crisis. The repercussions of such trends would mostly affect female workers. In this sense, the implementation of the EU Gender Equality Strategy, with substantial measures, must be an integral part of Member States' employment policies. It is crucial to take immediate measures for: gender pay transparency and equal pay for equal work and work of equal value; work life balance and flexible working arrangements; and concrete steps against violence against women both in the workplace and in the domestic environment.

Guideline 7: Enhancing the functioning of labour markets and the effectiveness of social dialogue

The guideline's call to fight for transparent and predictable working conditions, to prevent segmentation and precarious employment, and foster the transition towards open-ended contracts, is a positive sign. Workers should have the right to adaptable working arrangements including making a voluntary move from part-time into full-time work. Such flexibility should also aim at fully implementing the provisions of the Work-life Balance Directive. The same applies to the strengthening and enhancing of social partners' capacity to bargain collectively, including on possible working time reduction. The guideline should also aim at extending collective bargaining coverage to atypical workers or including atypical workers in collective bargaining.

Other positive elements of the Commission proposal, in comparison with the current guideline, are: the emphasis on fair conditions for mobile workers; references to the fight against discrimination; and putting an end to in-work poverty. However, no specific measures are proposed to achieve this. It will be important for Member States to take into account mobile workers (including frontier workers) when implementing temporary measures, such as closing borders, to reduce the impact of the COVID-19 pandemic; for instance, in terms of taxes and social security. Guaranteeing equal treatment for mobile and frontier workers is crucial. This should also apply to all accompanying measures, relating to premiums and reductions in essential needs.

The COVID-19 pandemic has made the situation for migrant workers even more fragile on the employment front. Migrants must be guaranteed fair and decent conditions to access employment, thereby avoiding discrimination. It is also necessary to promote greater mobility between Member States for those who already have a permit and to take steps to regularise migrant workers by ensuring that they have regular jobs, with health and social security coverages.

One element that is missing in this guideline is the need for a better occupational safety and health. In the context of the COVID-19 pandemic, a healthy and safe workplace is vital in order to combat the risk of getting infected and of spreading viruses and other diseases. Employers need to take the responsibility of the health and safety of their workers seriously and provide them and their representatives with adequate information, make risk assessments and take preventive measures. To enhance the functioning of labour markets, Member States should ensure that there is a sound legal basis requiring the provision of occupational safety and health and establishing strong rights and resources for trade union health and safety representatives. In addition, there is a clear need for increased public funding for labour inspectorates. Member States should also take action to minimize the risk that workers with COVID-19 symptoms are forced to go to work for economic reasons and expose others to the risk of getting infected. One way is by implementing sick pay from the first sick day. Furthermore, it is imperative that workers belonging to vulnerable groups, for example due to other medical conditions, do not go to work and expose themselves to mortal risk. Sick pay or other special treatment can minimize this risk. COVID-19 should also be recognized as an occupational disease (or work accidents in countries where such a possibility exists) for all workers, with all the consequent responsibilities for employers.

Guideline 8: Promoting equal opportunities for all, fostering social inclusion and fighting poverty

In the Commission proposal, social protection coverage is approached from the perspective of the demographic challenge and the need for workers to stay longer at work. The guideline should also consider the objectives of the Council Recommendation on access to Social Protection for workers and self-employed⁷ in substantial terms: full and effective coverage, adequacy and transparency. All forms of employment should thus guarantee these objectives and the public expenditure of Member States should be enabled to top-up the insufficiency of the insurance-based systems in providing minimum adequate protection to all workers and self-employed.

The original guideline contains a reference to “timely access to affordable preventive and curative health care and long-term care of good quality, while safeguarding sustainability over the long run.” The current COVID-19 crisis also shows the need for increased public spending to ensure a sufficient level of well-trained staff with good pay and conditions, and access to healthcare and social care for all.

With regards to active ageing, as mentioned in the guideline, concrete proposals are needed to avoid the promotion of inadequate policies for senior workers. As agreed by the European Social Partners in the Autonomous agreement on active ageing and inter-generational solidarity, active ageing "is about optimising opportunities for workers of all ages to work in good quality, productive and healthy conditions until legal retirement age, based on mutual commitment and motivation of employers and workers".⁸ The agreement identifies specific measures in the field of strategic assessments of workforce demography, health and safety at the workplace, skills and competence management, work organisation for healthy and productive working lives, and an inter-generational approach.

⁷ <https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=COM%3A2018%3A132%3AFIN>

⁸ http://resourcecentre.etuc.org/spaw_uploads/files/framework_agreement_on_active_ageing_003.pdf